Briefing

Heavy industry

Overview

Sustainable heavy industry's hard choices

By Eric Marx

Extractive industries have developed initiatives that can defeat the 'resource curse'

Turning natural resource exploitation into sustainable development has never been simple or easy. Models of how to make it work exist – as do countless examples of what has gone wrong in the past.

Over the past 10 years voluntary initiatives have flourished in the extractives sector. Leading international companies are sharing innovative strategies on everything from revenue management and local community job training to best practice environmental assessment and dispute resolution.

At the same time, extractive industries are as controversial as ever. Huge sums of money paid by companies to often corrupt host countries are just one of the issues accounting for the industry's troubled image.

> *Collaboration between companies and stakeholders is a powerful way to tackle development challenges*

Most companies are not reporting what they pay these governments, according to a 2008 report issued by Transparency International. Yet a select number of companies that have signed up to the Extractive Industries Transparency Initiative (EITI) have demonstrated that revenue transparency is possible.

Currently, companies in 32 countries are either subject to EITI requirements – where it is part of the domestic law, as in Norway, Liberia and Nigeria – or voluntarily participate, in countries such as Mongolia and Kazakhstan, owing to tax incentives passed by the respective legislatures. Notably, the EITI includes mechanisms for independent monitoring, reporting and verification.

Some EITI companies have found a very strong business case for pushing disclosure all the way down to the local community level, says Luc Zandvliet, director of non-profit group CDA Collaborative Learning Projects, which works with oil and mining companies studying local stakeholder impact.

Follow the money

"Why is that important?" Zandvliet asks. "The communities trace the money flow back, so they see it is a positive good to have the company in their back yard."

If the monies don't find their way to the community, companies can also protect themselves against charges of bribery.

Recently, Newmont Ghana used EITI to fight charges that it paid bribes to elder chiefs at its Akyem mining facility. By referring critics to the company's previous disclosure of money paid to tribal leaders, Newmont made the case that the money constituted a legitimate payment for leading community-wide consultation sessions.

But to Oxford University professor Paul Collier, a noted academic on the so-called "resource curse", companies embracing transparency initiatives including EITI need to broaden the focus to the fundamental economic decision-making processes. That should start at the national level, he says, and include management of the discovery process and taxation of extraction companies.

> *Companies embracing initiatives need to broaden the focus to economic processes*

It's a prescription for proper revenue management that has not gone unheeded. One notable example is BP's pioneering work in Azerbaijan, begun in 2003, to ensure delivery of oil and gas revenue benefits. Its model of hosting visits to government planning departments by independent experts is a useful first step to more substantive collaboration, according to a recent report commissioned by the International Council on Mining and Metals (ICMM).

Collaboration tackles challenges

Antamina accomplished a more direct transfer of skills and knowledge with its open-pit copper and zinc mine in Peru. The company established regional and local management offices, providing hands-on technical help with distributing funds for improved health, education and economic development.

Collaboration between companies and stakeholders is a powerful way to tackle the full range of development challenges, says Aidan Davy, a senior programme director at ICMM.

Working together translates resource revenue into development, and it cuts across all areas of corporate responsibility. For Anglo American this includes improved safety standards. The mining giant recently attributed an industry-leading two-year drop in fatalities in its South African mines to collaborative initiatives carried out in conjunction with government and the unions.

"Understand the nature of the impact of your operations on stakeholders," advises Davy. "Go in early and develop even more ambitious partnerships." ■

Emerging economies

When the hosts take charge

By Eric Marx

Engaging with local stakeholders is the secret to success for international businesses operating in emerging economies

The natural resources industry is going through a turbulent period, something analysts attribute to rising commodity prices and greater coordination between asset-rich governments, indigenous peoples and NGO activists.

Violent demonstrations against mining companies, fears of growing resource nationalism, and higher taxation of the extractive industries exemplify a trend now ranging from Africa to Latin America and Asia.

Whether stirred up by grandstanding populist politicians or an awakened general public, the outcome is often the same. Assertiveness is growing among resource-rich countries demanding more compensation in the form of higher tax payments or greater equity share, or in some instances altogether cancelling contracts and seizing assets.

In this environment, proactive corporate responsibility engagement is more important than ever, according to Daniel Litvin of the sustainability consulting company Critical Resource.

"Corporate responsibility is linked," Litvin says, "in the sense that if companies can persuade the government and population of a country it is really committed to that country's development … it makes it less likely that government will turn against the company."

Management should find new partnership models that work more closely with governments, Litvin says. "Traditionally, companies go in and tinker here and there to encourage transparency and good governance, but the government remains corrupt and resource revenues end up not translating into sustainable development."

Litvin's advice is to enter into government partnerships in areas of training, education and technical support, but he says a lot of this also has to do with how companies manage their own environmental impact, as well as early due diligence assessments conducted before the completion of design and the start of construction.

Management should find new partnership models that work more closely with governments

Vedanta Resources might have taken this advice when it first began planning a bauxite mine in the Niyamgiri Hills of the east Indian state of Orissa. Seven years later it finds itself battling much-publicised allegations that it failed to adequately engage the Dongria Kondh, an 8,000-strong indigenous community whose traditional lands fall within the mine property.

The Church of England's decision in January to withdraw its investment from Vedanta dealt another blow to the company's credibility, something Jo Woodman, one of Survival International's field investigators, says might have been avoided.

"They did the absolute minimum," Woodman says, referring to radio and print broadcasts, which focused on the refinery, not the mine, and were in a language unknown to the Dongria.

Consultations may mean strong opposition from local communities, and companies are learning this. It is sometimes to their own chagrin but ultimately to everyone's benefit, says Fernanda Diez of the International Council on Mining and Metals (ICMM).

"Consultation – with whom and in which way – is a recurring lesson in most of the examples that have worked," Diez says.

When Newmont Mining made its first foray into Africa in 2003, the company learned from past difficulties at its Yanacocha gold mine in Peru, spending three years forging agreements before starting excavation at its Ahafo mine in mid-western Ghana.

Two better than one

Chris Anderson, Newmont Ghana's director of corporate and external affairs, attributes Ahafo's success to senior management support, and the decision to hire two general managers with equal clout. One of these is in charge of mining operations on the inside and the other focused on outside aspects of social and community development.

Consultation included more than 600 meetings and events between 2004 and 2009, with an assortment of local and regional stakeholders, including community leaders and members, government agencies, religious and traditional authorities, farmers' groups, business associations and the media.

That consultation entailed reaching out to about 190,000 people whose land either fell within the mine lease area or was affected by other factors such as traffic.

"Some communities which did not meet the criteria were upset," Anderson says. "But it was a mutually determined and consensus-driven decision by the Ahafo Social Responsibility Forum and its 55 members, based on clear-cut, objective and transparent criteria."

Newmont gave priority employment to Ghanaians, hiring a 97% Ghanaian workforce of which 47% are local. But because the mine only employs 3,300 people,

Enormous projects, enormous profits, enormous social challenges

Newmont knew it would have to reach out beyond the mine if it was to have any chance at improving the lives of the surrounding communities, most of whom were subsistence farmers with low education levels.

Anderson says it is possible for mines to source substantial amounts of goods and services from small business and communities close to mine sites. It took a good deal of skills training in conjunction with the International Finance Corporation and a number of consultants, but the payoff seems to have been well worth the cost and time: $10m in contracts with local companies spanning food supply, clothing manufacture, contract landscaping and truck driving.

"People have been able to build up successful small businesses and branch out to other areas in the country," says Anderson. "Small-scale business development can drive poverty reduction."

As for farmers in the area, Anderson says the philosophy was to get them to think about farming as a business and not just a lifestyle. The company's notion was to build on what people already knew and did by working to improve output and access to markets and micro-finance.

It is possible for mines to source substantial amounts of goods and services from local small business and communities

However, Anderson says there is always a countervailing pressure, "this tension … balancing local return and what's fair against foreign investors maximising their return".

Anderson says Newmont has paid roughly $42m in royalties to the Ghanaian government and almost none of that has come back to the local level.

The government sees gold prices rising, Anderson says, but does not have much knowledge about the capital-intensive aspects of Newmont's business or the global gold market.

It's why Newmont sought transparency in all its dealings – insisting the licence agreement be signed in parliament, rather than by the prime minister. Newmont has also been working through the Extractive Industries Transparency Initiative process to increase revenue return to the local level.

The next step involves local government's capacity to spend the money once it receives it. "You don't just negotiate a licence and walk away," says Anderson. "There has to be a tremendous amount of engagement in awareness-raising on each side."

Energetic engagement

For small and mid-sized companies wading into politically charged environments, the lack of deep pockets need not be a hindrance to the type of long-term, proactive engagement needed to win over government and civil society groups.

"Some may choose to engage more, some may choose to engage earlier or with different stakeholders," says Mark Eadie, head of environmental risk at JP Morgan. "Some may use industry bodies such as ICMM or [oil industry group] IPIECA, while others will develop more resources in-house."

Eadie adds: "Frequently the most common failing is insufficient engagement once they're doing the right thing. So often they don't get credit."

By contrast, Chris Anderson at Newmont has a far less charitable view of so-called "juniors" who are often perceived to be short-term players interested only in flipping projects to the majors. "They should be put out of business if they can't live up to environmental standards or aren't willing to engage the community properly," Anderson says. "To go to a local tea house and have your eyes and ears open – that doesn't cost a cent."

Aidan Davy, a senior programme director at the International Council on Mining and Metals, acknowledges the bad rap "juniors" often get, because they don't have the capacity or the willingness to get it right from the onset of exploration.

"The savvier ones, they don't go into deals with their eyes closed, but have done a great deal of due diligence – and not just concerning what's in the ground but understanding the set of social relationships that

Developing countries take control

Violent demonstrations against mining companies in **Ecuador**, **Bolivia** and **Brazil**, fears of growing resource nationalism in Libya, and higher taxation of the extractive industries in Kazakhstan exemplify just a few hotspot examples of a trend now ranging from Africa to Latin America and Asia.

Although superficially similar, the trend towards greater resource nationalism reflects different concerns. The **Kazakhstan** government announced in December that it would be increasing taxation on extractive industries due to rising prices on the global commodity market. It passed a new tax code and declared that production sharing agreements will no longer be used.

In October 2009, **Libya** established a new regulating high-level committee to oversee its oil and gas sector, bringing the National Oil Corp (NOC) under tighter government control. Analysts say the move reflects a conservative-dominated government under Prime Minister al-Mahmoudi advocating that more traditional socialist and statist principles be applied in the hydrocarbons industry.

At the same time, resource-nationalistic sentiments have been on the rise in recent years, as high oil prices spurred parts of the regime to seek higher government takes and to fear that oil companies were making away with too much of the country's resource wealth. This has led to an increasing tug-of-war between the reformists dominating the NOC and conservative factions of Libya's socialist regime.

Fears of growing resource nationalism have also been fuelled by a new formal requirement that all foreign joint ventures operating in the country should have a Libyan national in charge. After Libya opened its doors to foreign investment following the lifting of international sanctions in 2004, a host of international oil companies entered the country in a flurry of deal making. The new requirements will certainly affect their ease of doing business.

The trend towards resource nationalism in **South America** is a result of increased coordination among indigenous groups, particularly in the Amazon region, partly triggered by increased exploration of the resource potential there. Violent protests in **Peru** in June 2009 and elsewhere in the region reflect a desire among indigenous groups to increase their control. Yet they have for the most part failed to establish strong nationally based parties as a vehicle for political representation, with the exception perhaps of **Bolivia**.

Ecuador's turn towards greater government control, by contrast, is led by the leftist president, Rafael Correa, who in 2007 began forcing foreign oil companies to convert their production sharing agreements into service contracts with the state-owned mining company.

The stated goal is for Ecuador to reduce its fiscal dependency on revenues from oil exports, thus placating indigenous communities that remain opposed to large-scale mining projects, which they argue will damage the environment. The president's Yasuni initiative seeks to keep an estimated 850m barrels of heavy crude oil under the ground in a highly-biodiverse region near the country's eastern border with Peru.

they will ultimately have to take on board and deal with."

The challenge is for companies to limit their role to that of a facilitator, rather than a provider of all development needs. "You don't do that by a survey. It's engage, engage, engage, and then you can begin to develop a shared understanding of key priorities," Davy says.

Partnerships, he says, referring to a new ICMM report – Mining: Partnerships for Development – provide a base from which to understand the needs of the community.

> ***"You can have small companies that are very good – while some large ones put forth a strategy of non-engagement"***
> *Gavin Hayman, Global Witness*

"When we talk to people about working in partnership, they say 'that's terribly nice, but in practice it's so hard to do. It just doesn't happen like that'."

"We want to demonstrate that this is not as easy as falling off a log," Davy says. But there is a great deal going on, he argues, where companies and stakeholders have come together in partnership models that are more successful than companies acting unilaterally, without reference to the community or public authorities.

Gavin Hayman, director of campaigns for UK-based Global Witness, says a growing number of privately held companies are going into emerging hot spots where there's government volatility or atrocious human rights abuses.

"We sit them down and say this is what a disclosure programme looks like," Hayman says. "Rarely do we say you can't go there but we do say you need to have transparency and regard for human rights in your operations."

"We expect more from the big ones but, it's amazing, you can have small companies that are very good – while it's the large ones that often put forth a strategy of non-engagement."

Corporate collaboration

Another option for companies is to work collaboratively, pooling corporate responsibility resources where common interests converge. Such is the case in the Nimba mountains. Three extraction companies – BHP Billiton, Rio Tinto and Arcelor Mittal – are trying to come up with a joint management plan for the preservation of a large expanse of west African rainforest bordering Sierra Leone, Ivory Coast and Guinea.

The Nimba mountains are a major global conservation priority because of their high levels of diversity and species rarity, says Jo Treweek, an environmental consultant with Fauna & Flora International, a UK-based conservation charity.

Nimba mountain residents that don't like mining

"There is a lot of goodwill towards investing in capacity building, but it's not that easy," Treweek says.

"We can perform good biodiversity studies but when we get to the level of working with communities and the government to make sure everybody has the ability to engage in this process, it's very challenging – particularly in the timeline we have. So we are trying to get all the NGOs and companies involved together."

Each company has its own strong specialty area, and companies are learning from each other. As Treweek points out, by combining corporate-NGO awareness, they can coordinate better, avoid duplication and, importantly, get things done. ■

Project financing

Improving standards still not good enough

By Rajesh Chhabara

Financial institutions have increasingly adopted responsible project financing standards. But NGOs say standards themselves fall short and need reform

Large infrastructure projects such as oil and gas pipelines, mines and telecommunications are important for social and economic development. But these projects, if not managed responsibly, can work against the interests of local communities and lead to environmental disasters.

Mega projects require massive investments, often made possible by a consortium of banks and international financial institutions such as the International Finance Corporation and government-backed export credit agencies.

Banks, export credit agencies and international lending organisations therefore have a crucial role to play. They should finance only those projects that meet the criteria for sustainable development and shun those that fail to meet internationally agreed principles on human rights and the environment.

In order to meet such expectations, the banking industry launched the Equator Principles, a set of voluntary social and environmental guidelines for project financing, in 2003. From 10 signatories, the list has grown to more than 70 banks.

The Equator Principles apply to projects with total capital cost of more than $10m. Signatory banks commit to not providing loans to projects where the borrower cannot comply with the social and environmental policies contained in the principles.

Over the years, the Equator Principles have become part and parcel of leading banks' social and environmental risk management process. Typically, banks require the project applicant to submit an environmental impact assessment to determine if the principles are being met or not. In most cases, funding can proceed if the project owner can come up with an acceptable action plan to address social and environmental concerns.

Adopting tougher standards

A number of banks have since made efforts to implement the Equator Principles and even extend those principles to other transactions beyond project financing.

For example, at Standard Chartered Bank, which applies the principles to project financing, social and environmental standards now govern all lending operations. Standard Chartered introduced position papers in 2009 on sensitive industries including mining, oil and gas, forestry and palm oil, ship breaking, fossil-fuelled power generation, biofuels and dams.

"With the implementation of sector position papers, we have gone beyond the Equator Principles," says Yulanda Chung, head of sustainability at Standard Chartered. "We selected these sectors because we know they have high impact on the environment and communities."

Giving an example of how Standard Chartered is extending social and environmental principles to non-project-financing transactions, Chung says the bank advised China Forestry Holdings to work towards obtaining Forest Stewardship Council certification for plantations in the run-up to its initial public offering on the Hong Kong Stock Exchange recently. She says committing to FSC certification helped China Forestry to get a favourable response during roadshows for the IPO.

Citibank, one of the founding members of the Equator Principles, has also extended their use to non-project-financing operations. "The Equator Principles were the starting point for looking at broader environment and social risk management," says Shawn Miller, Citigroup's global director of environmental and social risk management (ESRM). Miller says the bank has expanded the environment and social risk management policy to other transactions as well, including corporate loans, bond underwriting and equity underwriting.

Miller says responsible lending practices have reduced the bank's risk and increased clients' confidence in the bank's services. "Many clients view Citi as a sustainability leader, and they appreciate and value our advice. We have deepened and strengthened a number of client relationships because of the expertise we can bring to the table."

While NGOs agree there are banks that have made genuine efforts, they say many banks are not living up to the principles they have committed to. They also say that in many cases banks' standards fall short of internationally agreed principles on human rights and environment.

BankTrack, an international network of civil society groups that monitors commercial banks, says bold steps are needed to reform the Equator Principles to make them effective.

In an open letter to the banking sector, written in January, BankTrack points out that banks continue to finance projects that have adverse social and environmental impact such as giant dams, huge mining projects, oil and gas pipelines, coal power plants and paper mills. John Frijns, BankTrack's coordinator, complains that dialogue with banks over the years has achieved little.

BankTrack lists on its website a number of "dodgy deals" being supported by some of the Equator Principles signatory banks and other financial institutions. These include:

Equator Principles: what do NGOs want from banks?

- **Open up**, by improving the transparency of the Equator Principles through full disclosure of banks' implementation efforts on the project level, and disclosure of all information related to a project's social and environmental impact.
- **Be accountable**, by improving the community consultation process, establishing guidelines for project grievance mechanisms, and establishing an accountability mechanism for the EPs themselves.
- **Expand the scope** beyond project finance transactions to general corporate loans, asset management activities and initial public offerings.
- **Stop financing climate change**, by developing exclusion criteria for projects and activities with a high impact on carbon emissions, such as fossil fuel exploration projects and coal power plants, and by developing stringent climate targets for other projects.

Source: Open letter sent to Equator banks by BankTrack, an international coalition of NGOs that monitors commercial banks

- Gunns Paper Mill in Tasmania, Australia, involving Credit Suisse, JP Morgan Chase, Macquarie Bank, Nordea, Finnvera and OeKB;
- the Rio Madeira dam project in Brazil, involving Banco Bradesco, Banco do Brasil, Banco do Espirito Santo and Banif;
- Kashagan Oil Project in Kazakhstan, involving Bank of Tokyo, BNP Paribas, Citigroup, ING Group, Mizuho, Société Générale and Sumitomo Mitsui Banking Corporation);
- the Theun-Hinboun dam expansion project in Laos, involving ANZ, BNP Paribas and Ex-Im Bank of Thailand.

"We often see many private banks simply state that they are complying with social and environmental standards without actually demonstrating them in projects," says Doug Norlen, policy director of Pacific Environment, a San Francisco-based non-profit group campaigning for responsible finance. He says the Equator Principles are narrow in scope, fail to incorporate human rights safeguards and are largely ineffective.

Lack of transparency and disclosure particularly worry campaigners. "Often, the environment and social impact assessments of projects don't describe what specific benchmarks within the applied social and environmental standards are to be met and how the project will meet those standards," Norlen says.

The Equator Principles themselves are based on the IFC's policy and performance standards on social and environmental sustainability. NGOs say the IFC's standards are also inadequate and require reforms. The IFC – the World Bank's private sector investment arm – has been repeatedly criticised for poor implementation of performance standards and financing projects that activists allege violate its own principles.

For example, World Bank president Robert Zoellick ordered suspension of IFC investments in palm oil companies in September 2009. An investigation was launched after NGOs lodged a complaint with the IFC's compliance adviser ombudsman raising concerns about the adverse environmental and social impacts of Wilmar Group's palm oil operations in Indonesia, financed by the IFC.

"Our research shows a big gap in the IFC standards around forced evictions and land acquisitions that lead to displacement of communities affected by the project," says Jennifer Kalafut, co-director of International Accountability Project, which campaigns against developments that cause forced displacement of communities.

She says IFC standards fall short of other international codes such as the UN's guidelines on development and forced eviction and displacement.

The IFC is in the middle of reviewing its policy and performance standards on social and environmental sustainability and disclosure policy. An international coalition

> ***The EPs have become part of leading banks' social and environmental risk management processes***

of civil society groups is preparing a draft that will make the IFC policy and standards more stringent. Kalafut, whose organisation is part of the coalition, says: "The main issues with IFC relate to a lack of due diligence and disclosure and failing to ensure that their clients are conducting appropriate consultations with the affected community."

The IFC invested more than $32bn in 2008 in private companies operating in developing countries. Advocacy groups say the IFC has substantial influence on the standards applied by the private banks in project financing. They say the IFC standards are not only meant to protect communities and the environment by responsible lending, but also set examples for private banks.

Can improved standards bridge the gap?

New approaches

Norlen says relying too much on the IFC performance standards has prevented development of competitive standards and approaches.

The export credit agencies of the members of the OECD, a key player in project financing, also refer to the performance standards as a common environmental and social benchmark for export credits and loan guarantees. Still, projects supported by export credit agencies often run into controversy for ignoring social and environmental impacts. (See EthicsWatch, p8.)

Observers say ineffective standards and poor implementation mean multinational companies building large projects or environmentally and socially sensitive heavy industries can often get around the standards. "Heavy industries use policies of the IFC and the Equator Principles to get a stamp of approval from a legitimate institution. And they use this approval to attempt to demonstrate decreased project risk and increase their availability of financing," Norlen says.

"For heavy industry, this is often a way to greenwash their projects," he concludes.

To get beyond this, then, both the IFC and the banking industry need to consider widespread distrust of their social and environmental policies and procedures among civil society organisations and find ways for broader collaboration with stakeholders to raise the bar on financing. ■

NGOs

Activist battles don't win the war

By Eric Marx

NGOs and activists play a major role in keeping industry in line, but sometimes aim at the wrong targets

The indefatigable Rainbow Warrior

Gaining ever-greater influence amid heightened global consciousness, non-governmental organisations have become a powerful and important force on the business landscape for heavy industry.

The ideals that NGOs espouse directly contribute to corporate social responsibility efforts. Often, though, NGOs come under attack for the means by which they develop their political leverage.

One oft-cited example, the "battle of Brent Spar", caught Greenpeace overestimating the contents of a decommissioned oil storage buoy in the North Sea Brent oilfield. Greenpeace waged a successful international media campaign, forcing Shell to pursue on-shore disposal, but later suffered damage to its reputation.

"Greenpeace was morally right and won the campaign but lost the war in some ways," says Gavin Hayman, director of campaigns for UK-based Global Witness.

But the coercive technique of naming and shaming is perfectly legitimate, Hayman argues, provided the investigations are independently verified and offer companies a first opportunity to respond before publication. "All we have is our reputation. If we get something wrong, these corporations with huge amounts of money will sue us to pieces," he says.

The best prescription for companies is to engage communities and governments by working more closely with NGOs

But critics argue that even the best advocacy-oriented NGOs such as Global Witness, Human Rights Watch and Amnesty International, often suffer from tunnel vision. They can disproportionately single out a handful of deep-pocketed western companies, for example, while focusing less on competitors and government-owned companies in emerging countries where standards are lower.

The NGOs are doing a great deal of invaluable work, but they continue to over-simplify, says Daniel Litvin of the sustainability consulting company Critical Resource. "It's a less exciting campaign to say 'this problem results from a mix of issues and balances of responsibility'."

It's a charge both Global Witness and Amnesty International vehemently deny. "That's a classic company argument," Hayman says. "Don't pick on us; it's the government."

Major discrepancies

Hayman points to a September 2009 report issued by Global Witness showing a major discrepancy between oil revenues declared by the Sudanese government in Khartoum and those provided by the state-owned China National Petroleum Corp. He also cites a July 2009 report linking American banking institutions to corrupt officials in the oil-rich nation of Equatorial Guinea as further evidence of the NGO's even-handedness.

Nevertheless, it remains the case that maximum leverage does lie in going after the big western players – some of which happen to be the best behaved in industry.

Amnesty International's Shanta Martin, a senior policy adviser to the extractive industries, cites her work with Oxfam Australia, bringing junior mining companies to task in the Philippines. Yes, focusing on large companies is legitimate, Martin says, because they have the largest number of operations and cultivate influential relationships with governments.

"Far too often, corporate entities maintain a deny and avoid approach to civil society attention, or at the other extreme, a slick PR approach that does not reflect the reality of the impacts of corporate operations on local communities or the environment," Martin says.

She points to a raft of press releases issued in a single week to make her point. All involve human rights violations, an expansive term implying corporate legal liabilities in issues linked to violations of civil, political, economic, social and cultural rights.

"We have to have a regulatory framework complemented by voluntary processes," Martin says. "Voluntary processes in themselves are not enough."

In the interim, the best prescription for companies is to engage communities and governments, and to do so by working ever more closely with NGOs.

International advocacy NGOs such as Amnesty and Global Witness do not enter into partnerships with industry but do generally try to advise companies on proper due diligence when going into conflict zones.

Conducting due diligence is especially important when working with local NGOs that purport to represent the communities but often are no more than an individual with a fax machine and internet access. "Why shouldn't so-called NGOs be nothing less than shysters?" asks John O'Reilly, a former CSR manager at BP. "Companies that seek dialogue and have patience will be able to discern who the credible people are."

Another option is to work with conservation organisations such as WWF to establish no-go exploration zones, or environmental compensation schemes such as the World Conservation Union's (IUCN) Business and Biodiversity Offset Programme.

"Some say you can't compensate for extinction and that that puts some resources off-limits," says Joshua Bishop, chief economist at IUCN. But, he adds: "We're getting better at quantification, which makes it possible to ask the question." ■